# **Fact sheet:**

# Alaska Department of NATURAL RESOURCES

# ALASKA HERITAGE TRAILS PROGRAM

Division of Parks & Outdoor Recreation Division of Mining, Land & Water • May, 2002

#### The Problem

Alaska is rich in trails. Some trails have been used for thousands of years and others are much newer. Trails are vital to the Alaskan way of life for travel between villages, for outdoor recreation, and for hunting and fishing access. But many of these trails lack adequate legal protection and may be lost due to closures resulting from community expansion and development pressure, particularly land subdivision.

### **Background**

Trails are more easily protected on lands designated as State Parks, State Game Refuges, National Parks, National Forests, and National Wildlife Refuges because one land manager oversees them. The land manager usually has a specific land management mandate that includes public use and keeping the land in public ownership. It is not likely that trails within the boundaries of these lands will be lost.

But most of Alaska's trails are not within intensively managed public lands. These trails often cross a virtual checkerboard of undesignated public and private land ownership. Alaska has thousands of miles of trails that fall in this category. It is these trails that are at risk.

### **Trails on Undesignated Public Lands**

The public has an inherent right to reasonable use of a trail on undesignated public land. Undesignated public lands include Bureau of Land Management lands, general state lands, and lands owned by municipalities (cities and boroughs). Creating and reserving a public easement establishes an additional layer of protection for the trail that safeguards legal public access. An easement helps protect the trail from future land actions (such as disposal or lease) that might impact or restrict access.

### **Multiple Landowner Trails**

Many of Alaska's trails crisscross not only public land but also Native corporation lands, other private lands, and lands belonging to the Alaska Mental Health Trust or the University of Alaska.

For most of these trails that crisscross or meander across lands with multiple owners, legal access is unclear. Many of these trails, even though they might be identified in borough trail plans, have no official legal standing.

Why? Because an official public easement was never designated, issued, reserved, dedicated, or granted for the trail.

# How can a trail receive adequate legal protection?

Adequate legal protection means that public use of a trail is protected or access rights are safeguarded by a public easement. If an easement does not exist it must be acquired from the private landowner or reserved by the public land manager. A recorded document signed by the landowner will usually specify the width, length, type of use, and any limitations to which the easement is subject.

### Alaska Heritage Trails Program

The Alaska Heritage Trails Program is a project conducted by the Division of Parks and Outdoor Recreation and the Division of Mining, Land and Water, Alaska Department of Natural Resources. Its purpose is to acquire and reserve public trail easements to guarantee public access. The project is working on several different trails in the Matanuska-Susitna, Fairbanks North Star, and Kenai Peninsula Boroughs.

To legally authorize and dedicate a trail easement on public land, the public land manager must create and dedicate a public easement, or reserve a public easement before conveying the affected land. Land conveyances include land leases, state land sales to private individuals, and state land grants to cities and boroughs.

To acquire a public trail easement across private land, the private landowner must grant, dedicate, sell, or lease an easement for public use.

Establishing an easement can involve many steps. Acquiring an easement from even one landowner can be time consuming. Acquiring easements from two or more is even more involved.

### **Easements Steps**

There are some general steps that must be undertaken and completed to establish legal public access.

- 1. Research the land ownership
- 2. Apply for the easement
- 3. Adjudicate and negotiate for the easement
- 4. Develop a mapping plan
- 5. Recover survey monuments (to determine where the trail crosses existing property boundaries)
- 6. Map the trail
- 7. Easement document issued
- 8. Trail easement recorded

Please remember that these are *general* steps. A particular trail project may have additional steps or may not follow these steps in exact order. Every trail is unique and will have slightly different circumstances. Land ownership, land status, and the management policy of the respective landowners along the trail will also affect easement steps. It will be necessary to contact the individual landowners or land managers for specific information.

### The Goal:

To protect existing Alaska recreational trails by establishing legal public access.

### A Useful Tool

A new state law, AS 34.17.055, can provide liability protection for private landowners who grant public trail easements across their property. Until passage of this landowner liability law, adopted by the Alaska Legislature in 1999, there was little incentive for a private landowner to grant a public trail easement. The new law protects a landowner against lawsuits over accidents or injuries to trail users if the landowner grants an easement, up to 50' in width, that is accepted by the state or a municipality (city or borough), and that provides public access for recreational purposes. Thus trail easements can limit a landowner's liability and also may provide a tax benefit.

The Alaska Heritage Trails Program is a way to make use of this new law.

### The Vision:

To protect recreational trails with legally established easements acquired from all landowners. The intention is that the trails be uniformly marked, under one coordinated management authority, and, where appropriate, maintained by local clubs or organizations through adopt-a-trail agreements or similar programs.

### For additional information:

Contact the Alaska Heritage Trails Program, Division of Parks & Outdoor Recreation, 550 W. 7<sup>th</sup> Avenue, Suite 1380, Anchorage, AK 99501-3561. Phone (907) 269-8699; fax (907) 269-8699.